IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 2751 of 2005

Between:

Ramakrishna Raw Rice Mill, represented by its Managing Partner Nallamilli Krishna Reddy, S/o. Venkata Reddy, Hindu, 52 Years, R/o. Samalkota, East Godavari District.

..... PETITIONER

AND

1 Deputy Commissioner, Commercial Tax, Kakinada, East Godavari District.
2 Commercial Tax Officer, Peddapuram, East Godavari District.
3 Deputy Commercial Tax Officer, Samalkota, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus, or any other appropriate Writ, order or direction, declaring the action of the respondents in issuing the notice in Form-6, dt. 18-1-2005 u/Sec. 29 of the Revenue Recovery Act, and consequential paper notification published in Eenadu dt. 15-2-2005 putting the schedule property of the petitioner rice mill in public auction on 17-2-2005 as illegal, arbitrary, violative of principles of natural justice and for a consequential order directing the respondents to drop all further proceedings including public auction scheduled to be held on 17-2-2005.

Counsel for the Petitioner: MR.CH.DHANAMJAYA

Counsel for the Respondents: GP FOR COMMERCIAL TAXES

The Court at the admission stage made the following:

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ORAL ORDER: (per GB. J.)

The Writ Petition is filed seeking a Writ of Mandamus declaring the action of the respondents in issuing the notice in Form-6, dated 18.1.2005 under Section 29 of the Revenue Recovery Act and consequential paper notification published in Eenadu dated 15.2.2005 putting the scheduled property of the petitioner Rice Mill in public auction on 17.2.2005 as illegal, arbitrary, violative of principles of natural justice and for a consequential order directing the respondents to drop all further proceedings including public auction scheduled to be held on 17.2.2005.

2. It is the case of the petitioner that the Rice Mill itself was seized under the Securitisation Act in 1998 itself and there were no transactions and when the properties have been auctioned by the respondents, payment of arrears of sales tax does not arise.

3. The principal contention of the petitioner is that since no assessment orders were served on him, question of payment of sales tax would not arise. He also submits that there were no business transactions at all from 1998 as the Mill was attached and seized. Therefore he seeks appropriate directions.

4. We have also heard the learned Government Pleader for Commercial Taxes.

5. We are not inclined to interfere with the matter at this stage. Since the petitioner submits that no assessment orders have been served, we leave it open to the petitioner to make an application to the Department for furnishing the copies of the assessment orders. If it is so aggrieved by the said orders, it is open for the petitioner to challenge the same in an appropriate Forum. However, we direct that no coercive steps shall be taken by the Department against the petitioner for a period of six (06) weeks to enable the petitioner to take appropriate steps.

6. With the directions indicated above, the Writ Petition is disposed of. No costs.

(G.BIKSHAPATHY, J.)

5th April, 2005.

(P.S.NARAYANA, J.)

SSR

Issue copy tomorrow.

(BO)

..... REGISTRAR

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SECTION OFFICER

To

1 The Deputy Commissioner, Commercial Tax, Kakinada, East Godavari District.
2 The Commercial Tax Officer, Peddapuram, East Godavari District.
3 The Deputy Commercial Tax Officer, Samalkota, East Godavari District.
4 2 CCs to G.P. for Commercial Taxes, High Court of A.P. Hyderabad.
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